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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,979	09/05/2003	John Howard Estes	ESTES-03	8938
30568	7590	09/08/2004	EXAMINER	
MARY J. GASKIN ANNELIN & GASKIN 2170 BUCKTHORNE PL. SUITE 220 THE WOODLANDS, TX 77380			TRUONG, THANH K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/655,979	Applicant(s) ESTES, JOHN HOWARD	
	Examiner Thanh K Truong	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lippacher et al. (4,171,083).

Lippacher discloses an apparatus comprising:

An elongated cylindrical body member 6 having a bore, a first tapered end, and a second end, and an internal foundation on the bore near the tapered end (where the spring rests);

A spring 22 fits inside the bore of the body member, the spring having an end stopped by the internal foundation on the bore of the body member;

A driver (not numbered – surrounded by spring 22) having a nailing end 14c and an impact end (below the tip of the drill bit), the nailing end of the driver being inserted through the second end of the body member into the bore, inside the spring 22 disposed therein, in axial alignment;

A ram 14 having a bore, the ram further having a driving end (where it drives the driver) and a socket end (where it receives the drill bit), the socket end having an internal shoulder (where it supports the drill), the driving end of the ram being inserted

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through the second end of the body member into the bore; in axial alignment, the driving end of the ram resting against the impact end of the driver;

Means for holding the ram in place inside the bore of the body member (housing 15 and member 16);

Means 8 for temporarily locking the tool to the masonry drill bit, the stem of the masonry drill bit having been inserted into the bore of the ram; the rotary hammer drill impacts the fastening member without impacting the body member of the tool (column 1, lines 45-48).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foose (6,446,318) in view of Watkins, Jr. et al. (4,867,249) and further in view of Kosik et al. (5,979,913).

Foose discloses an apparatus comprising:

An elongated cylindrical body member 12 having a bore, a first tapered end, and a second end, the body member further having an internal foundation on the bore near the tapered end (where the spring 16 rests);

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A spring 16 sized to fit inside the bore of the body member, the spring having an end stopped by the internal foundation on the bore of the body member;

A driver 14 having a nailing end and an impact end, the nailing end of the driver being inserted through the second end of the body member into the bore, inside the spring disposed therein, in axial alignment (figure 1 & 3-5).

Foose discloses the claimed invention, but does not expressly disclose a ram that is used to impact the driver and being driven by a power tool.

Watkins discloses (figure 9) an apparatus comprising:

a ram 120 having a bore, the ram further having a driving end and a socket end (where it receives the drill bit 138), the socket end having an internal shoulder 136. Watkins teaches the use of a power tool to impact the fastening member through the ram 120.

Kosik discloses an apparatus comprising a ram, which receives the drill bit 72, impacts the tool 38 which is used to drive the anchor 10 into concrete surface 12. Kosik teaches the using a power tool to drill a hole in a concrete surface, and in turn using the same power tool to drive a setting tool without requiring the removal of the drill bit.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the Foose apparatus by incorporating the use of the ram that will receive the drill bit of a power tool and drive the setting tool in order to facilitate the driving of an anchor into a concrete surface, as taught by Watkins and Kosik.

The modified device of Foose further discloses:

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means 15 (snap ring) for holding the ram in place inside the bore of the body member (Foose – figure 3);

means 130 (spring clip) for temporarily locking the tool to the masonry drill bit, the stem of the masonry drill bit having been inserted into the bore of the ram 120, the bullnose foundation 142 of the masonry drill bit resting against the internal shoulder 136 of the socket end of the ram (Watkins – figure 9); keyed bearing 46 having a longitudinal slot 35 (Kosik – figure 2); the tapered open end of the body member having the tip that being machined to have an inner concave shape 54 (Watkins – figure 9); and the body member has an outer surface with knurls 24 machined therein (Foose – figure 1).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tk

August 29, 2004.

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700